

Decision 03-09-075     September 18, 2003

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company in  
the 2001 Annual Transition Cost Proceeding for the  
Record Period July 1, 2000, through June 30, 2001.

Application 01-09-003  
(Filed September 4, 2001)

Application of San Diego Gas & Electric Company  
(U 902 E) in the Fourth Annual Transition Cost  
Proceeding Addressing the Transition Cost Balancing  
Account (TCBA).

Application 01-09-005  
(Filed September 4, 2001)

**ORDER DENYING REHEARING OF DECISION (D.) 03-02-028**

On March 20, 2003, Pacific Gas and Electric Company ("PG&E") applied for rehearing of Decision (D.) 03-02-028. D.03-02-028 ("Decision") resolves issues concerning the reasonableness and recovery of certain of PG&E's and San Diego Gas and Electric's ("SDG&E's") transition costs as part of the Annual Transition Cost Proceeding ("ATCP"). At issue in PG&E's application for rehearing is the Decision's holding that although \$ 34.8 million in expenses PG&E incurred to market value its hydroelectric facilities was reasonable, recovery of those expenses should be deferred until 2006.

We have carefully considered all the arguments presented by PG&E and are of the opinion that no grounds for rehearing have been demonstrated. PG&E urges the Commission to reconsider its discretionary decision to postpone PG&E's recovery of its market valuation expenses. We find that PG&E fails to identify any legal error in our decision to defer PG&E's recovery of these expenses and the Decision rests on sound policy grounds. We are therefore denying PG&E's application for rehearing of D.03-02-028.

PG&E suggests that the Decision errs in connecting the requirements of Public Utilities Code sections 367 (b) and 377, and delaying the recovery of the market valuation expenses because of that connection. PG&E misunderstands the reasoning of the decision.

Section 367 requires the Commission to determine the uneconomic costs of the electric utilities' generation facilities by December 2001. Pursuant to section 367 (b), that calculation shall be based on the market value of the facilities determined by "appraisal, sale, or other divestiture." PG&E incurred expenses in valuing its hydroelectric facilities pursuant to the requirements of that section. Section 377, as amended in January 2001, provides that "no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006." PG&E argues that the section 367 (b) valuation requirement is "separate and distinct" from the section 377 moratorium on divestiture and that therefore recovery of the market valuation costs "should not be tied to any subsequent disposition of PG&E's hydroelectric facilities." (PG&E App., at p. 5.)

The Decision's reasoning is not based on whether the requirements of sections 367 and 377 are connected. Rather the Decision notes that in the event the facilities are sold, the market valuation expenses may best be understood as transaction costs, regardless of these statutes. These transaction costs would be factored in to determine the profit earned on the sale of the plant, if any. Of course, if there is no sale, the expenses would simply be reasonable expenses to be recovered from ratepayers. The Decision concludes that it is best to wait until 2006, when the facilities may be eligible for sale, to determine the appropriate treatment of the valuation expenses. Our approach is reasonable and is not dependent on whether or not the requirements of sections 367 (b) and 377 are "connected." Therefore, PG&E has not demonstrated legal error on this basis.

PG&E further argues that it is unfair that it is unable to recover its market valuation expenses now, when a portion of those expenses, those incurred in the required CEQA review and owed to the Commission, are currently due. According to PG&E, it is not appropriate to defer PG&E's recovery of this amount until 2006 when the Commission is recovering this money from PG&E now.

PG&E fails to understand the significant difference between the Commission's recovery of its CEQA expenses and PG&E's recovery of those expenses from ratepayers. We have no possibility of recouping our CEQA expenses in any manner, or from any source other than PG&E. As the Decision explains this is not the case for PG&E. In the event PG&E sells its hydroelectric facilities, these costs may be considered transaction costs to be recouped from the sales price.

PG&E also maintains that the Decision errs when it concludes that there is a possibility of double recovery of PG&E's section 367 (b) market valuation expenses. PG&E argues that the expenses incurred will not result in a higher purchase price, or record a higher book value and, therefore, there is no possibility of double recovery. This argument goes back to PG&E's view that the market valuation expenses should be considered regulatory expenses rather than transaction costs associated with a subsequent sale. The Decision concludes that they may be appropriately considered transaction costs if the assets are sold, but delays resolving the issue until 2006 when the assets are eligible for sale. There is no error in the Decision concluding that these expenses may be appropriately viewed as transaction costs in the event of a sale.

Finally, PG&E suggests that the Commission's action in deferring recovery of these expenses is inconsistent with our usual practice of allowing utilities to recover expenses that we have found to be reasonable. Although deferring this type of expense may not be typical, the underlying situation is not typical. In this case, there is the unusual situation of a statutory requirement that facilities be valued, but a statutory prohibition against those facilities being sold or otherwise disposed of at the current time.

There is nothing inconsistent in treating this as a unique situation and deferring recovery of the valuation expenses until it is clearer whether these facilities will be sold. Notably, there is no indication that this deferral presents any hardship for PG&E. It is not uncommon for PG&E to hold amounts in memorandum accounts for some time before they are recovered.

Therefore **IT IS ORDERED** that rehearing of Decision (D.) 03-02-028 is denied.

This order is effective today.

Dated September 18, 2003, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners